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EXAMINER

BAUM, RONALD

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/869,816	<b>Applicant(s)</b> INOKUCHI ET AL.	
	<b>Examiner</b> RONALD BAUM	<b>Art Unit</b> 2439	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 49-63, 87-92 and 94-96 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 49-63, 87-92 and 94-96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. This action is in reply to applicant's correspondence of 15 October 2010.
2. Claims 1-11, 49-63, 87-92 and 94-96 are pending for examination.
3. Claims 1-11, 49-63, 87-92 and 94-96 are rejected.
4. In view of the appeal brief filed on 01 February 2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,  
(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2439

### **Specification**

The disclosure is objected to because of the following informalities: pages 3, line 25-page 9, line 23 reference claims which are either not present in the instant application or not in the form recited in the disclosure. Appropriate correction is required

### **Claim Objections**

Claim 5 is objected to because of the following informalities: the word "eclectic" is assumed to be correctly "electric". Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-10, 50-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-10, 50-63 recites the limitation "... data decoding apparatus ..." in Claims 2-10, 50-63. There is insufficient antecedent basis for this limitation in the claim, whereas for the sake of applying art, the examiner assumes the phrase should be "... reproducing ..." as in the independent claims as amended.

Claims 2, 9, 10, 50, 51, 55, 58-61, 63 recites the limitation "... digital data ..." in Claims 2, 9, 10, 50, 51, 55, 58-61, 63. There is insufficient antecedent basis for this limitation in the claim, whereas for the sake of applying art, the examiner assumes the phrase should be "... contents ..." as in the independent claims as amended.

Claims 50, 52, 62 and 63 recites the limitation "... said second storage ..." in Claims 50, 52, 62 and 63. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claims 52, 53 recites the limitation "... history information ..." in Claims 52, 53. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

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**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-8, 11, 49-55, 63, 87-92 and 94-96 are rejected under 35 U.S.C. 102(e) as being anticipated by Berstis et al, U.S. Patent 6,282,653 B1 (' Berstis ').

***Prior Art's Broad Disclosure vs. Preferred Embodiments***

As concerning the scope of applicability of cited references used in any art rejections below, as per MPEP § 2123, subsection R.5. Rejection Over Prior Art's Broad Disclosure Instead of Preferred Embodiments:

I. PATENTS ARE RELEVANT AS PRIOR ART FOR ALL THEY CONTAIN "The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments. Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989). See also > Upsher-Smith Labs. v. Pamlab, LLC, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005) (reference disclosing optional inclusion of a particular component teaches compositions that both do and do not contain that component); < Celeritas Technologies Ltd. v. Rockwell International Corp., 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998) (The court held that the prior art anticipated the claims even though it taught away from the claimed invention.). > See also MPEP § 2131.05 and § 2145, subsection X.D., which discuss prior art that teaches away from the claimed invention in the context of anticipation and obviousness, respectively.<

**II. NONPREFERRED AND ALTERNATIVE EMBODIMENTS CONSTITUTE PRIOR ART**

Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). Furthermore, "[t]he prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Berstis generally teaches and suggests (e.g., Abstract, figures 1-7 and associated descriptions in general) the limitations set forth in the claims below.

7. As per claim 1; "A data reproducing apparatus comprising:

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a memory configured to store

contents data,

subordinate data, and

right data [e.g., figures 1-5 and 7 and associated descriptions, and more

particularly figures 1-3, whereas the system for royalty collection for computer

distributed/stored/reproduced (e.g., col. 2, lines 37-col. 4, line 9; '*... data reproducing*

*apparatus ...*') copyright protected content (e.g., col. 1, lines 5-col. 4, line 9; '*... contents*

*data ...*'), insofar as the source/target transfer encompasses processing elements/storage

devices for any combination of source/target elements (e.g., col. 6, lines 6-col. 7, line 61;

'*... memory configured to store ...*'), and said content(s) reproduction is logged, counted

(e.g., col. 4, lines 45-col. 6, line 5; '*... right data ...*') – with appropriate copy control and

usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col.

6, line 5; '*... subordinate data ...*'), clearly encompassing the claimed limitations as

broadly interpreted by the examiner.],

said contents data including

at least one of

audio data and

video data [e.g., figures 1-7 and associated descriptions, whereas the

system for royalty collection for computer distributed/stored/reproduced

copyright protected content (e.g., col. 1, lines 5-col. 4, line 9; '*... contents data ...*

*at least one ... audio ... video ...*'), clearly encompassing the claimed limitations

as broadly interpreted by the examiner.],

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said subordinate data including

a reproduction condition

label of said contents data [e.g., figures 1-5 and 7 and associated descriptions, and more particularly figures 1-3, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as the said content(s) reproduction is logged, counted – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5; '*... subordinate data ... reproduction condition label ... contents data*'), clearly encompassing the claimed limitations as broadly interpreted by the examiner.], and

said right data indicating

a right to

reproduce said contents data [e.g., figures 1-5 and 7 and associated descriptions, and more particularly figures 1-3, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as the said content(s) reproduction is logged, counted (e.g., col. 4, lines 45-col. 6, line 5; '*... right data ... right to reproduce ...* ') – with appropriate copy control and usage/payment schemes updated, clearly encompassing the claimed limitations as broadly interpreted by the examiner.];

a reproducing unit configured to reproduce said contents data [e.g., figures 1-7 and associated descriptions, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content (e.g., col. 1, lines 5-col. 4, line 9; '*...*

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*reproducing unit ... reproduce ... contents data '*), clearly encompassing the claimed limitations as broadly interpreted by the examiner.]; and

a controller configured to

control said reproducing unit

to reproduce said contents data

based on

said right data, and

to change said right data

based on

said subordinate data

when

said contents data are reproduced [e.g., figures 1-7 and associated descriptions, whereas the system for royalty collection for computer distributed/stored/reproduced (e.g., col. 2, lines 37-col. 4, line 9; '*... controller configured ... control said reproducing ... reproduce said contents ...* ') copyright protected content, insofar as the source/target transfer encompasses processing elements/storage devices for any combination of source/target elements (e.g., col. 6, lines 6-col. 7, line 61; '*... controller configured ... control ... reproducing ... change said right ...* ')], and said content(s) reproduction is logged, counted (e.g., col. 4, lines 45-col. 6, line 5; '*... right data ...* ') – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines



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45-col. 6, line 5; '*... subordinate data ...*'), clearly encompassing the claimed limitations as broadly interpreted by the examiner.],

said reproduction conditions label

identifying a charge type among the charge types of

    buying type,

    gross type and

    degree type, and

    respectively specifying the charge conditions [e.g., figures 1-7 and associated descriptions, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is logged, counted – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5, such that pay-per-copy, subscription based, IOU, preview (*i.e., no charge scenario*), etc.; '*... reproduction conditions ... identifying a charge type ... charge conditions* '), clearly encompassing the claimed limitations as broadly interpreted by the examiner.],

said memory storing at least one of

    information concerning

        a number of occurrences in which

            said contents is reproduced and

    information concerning

        an amount of time during which

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said contents is reproduced [e.g., figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is logged, counted (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5, insofar as concerning the expiration date for a number of copies to permit to be reproduced with associated royalty collection/management; '... number of occurrences ... *amount of time* ... *contents is reproduced* ... ') – with appropriate copy control and usage/payment schemes updated, clearly encompassing the claimed limitations as broadly interpreted by the examiner.], and

said information concerning

a number of occurrences in which

said contents is reproduced and/or

said information concerning

an amount of time during which

said contents is reproduced

being updated

upon reproduction of contents [e.g., figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is logged, counted (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col.

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6,line 5, insofar as concerning the expiration date for a number of copies to permit to be reproduced with associated royalty collection/management; '*... information ...number of occurrences ... amount of time ... contents is reproduced ... updated ...*' ) – with appropriate copy control and usage/payment schemes updated (e.g., col. 2,lines 35-col. 4,line 8, col. 4,lines 45-col. 6,line 5, such that pay-per-copy, subscription based, IOU, *preview (i.e., no charge scenario), etc.; '... upon reproduction of contents '*), clearly encompassing the claimed limitations as broadly interpreted by the examiner.].

Further, as per claim 11, this claim is the method claim for the apparatus claim 1 above, and is rejected for the same reasons provided for the claim 1 rejection.

Further, as per claim 49, this claim is the apparatus embodiment of claim 1 for the case where the reproduction rights indicate the content reproduction is billable (i.e., a financial transaction is involved for reproduction as per the reproduction rights), and is rejected for the same reasons provided for the claim 1 rejection, insofar as upon appropriate copy control and usage/payment schemes appropriately updated (e.g., col. 2,lines 35-col. 4,line 8, col. 4,lines 45-col. 6,line 5, applicable to the pay-per-copy, subscription based, IOU (i.e., charging scenarios), *preview (i.e., no charge scenario), etc., aspects*), clearly encompassing the claimed limitations as broadly interpreted by the examiner.

8. Claim 2 **additionally recites** the limitation that; “The data decoding apparatus according to claim 1, wherein

said subordinate data includes  
identifiers of said digital data and  
said memory  
stores a log of an identifier of decoded digital data  
when said digital data is decoded”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is logged (e.g., col. 5, lines 31-col. 6, line 5, insofar as concerning the IOU scheme where while copies are made, the copying event (e.g., identifier of what content copied, when, how, etc.,) is saved (i.e., logged as stored in memory per se) for subsequent associated royalty collection/management; ‘... subordinate data ... identifiers of said digital data ... memory ... stores a log of an identifier ... digital data is decoded ... ’), counted – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5, such that pay-per-copy, subscription based, IOU, preview (i.e., no charge scenario), etc.,), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

9. Claim 3 **additionally recites** the limitation that; “The data decoding apparatus according to claim 1, further comprising  
an interface  
that safely exchanges data

with an external apparatus  
by encrypting the data,  
wherein said right data  
is transmitted through the interface.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed (i.e., content/reproduction associated data logged, counted – with appropriate copy control and usage/payment schemes updated), and subsequently forwarded externally to royalty collection/processing across the Internet – inclusive of the various secured TCP/IP packet cryptographic functionality (e.g., SSL, IPsec, IPv6, etc.; ‘... encrypting the data ...’) via the interface between the Web appliance (‘... interface ... safely exchanges data ... external ...’) and the network/associated support interfacing (e.g., motherboard I/O, power, interfacing etc.), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 89, this claim is the method claim for the apparatus claim 3 above, and is rejected for the same reasons provided for the claim 3 rejection; “The data reproducing method according to claim 11, further comprising the step of  
exchanging data

with an external apparatus

through an interface  
by encrypting the data,  
wherein said right data  
is transmitted through the interface.”.

10. Claim 4 **additionally recites** the limitation that; “The data decoding apparatus according to claim 3, wherein the interface has  
a contactless communicating unit.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A-7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed, and subsequently forwarded externally to royalty collection/processing across the Internet – inclusive of the various secured TCP/IP packet cryptographic functionality via the interface between the Web appliance and the network/associated support interfacing (e.g., motherboard I/O interfacing remote control interface – via infrared interfacing; ‘... interface has ... contactless communicating ...’), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 90, this claim is the method claim for the apparatus claim 4 above, and is rejected for the same reasons provided for the claim 4 rejection; “The data reproducing method according to claim 89, wherein the step of exchanging data comprises the step of

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exchanging data

through an interface that includes

a contactless communicating unit.”.

11. Claim 5 **additionally recites** the limitation that; “The data decoding apparatus according to claim 4, wherein

the interface

has an electric power receiving unit; and

the data stored in said memory

can be accessed through said interface

by receiving power through said interface.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed, and subsequently forwarded externally to royalty collection/processing across the Internet – inclusive of the various secured TCP/IP packet cryptographic functionality via the interface between the Web appliance and the network/associated support interfacing (e.g., motherboard I/O, memory bus, power, interfacing etc., insofar as power supplied is necessary for the motherboard to perform all other processing/interfacing/storage functions; '... interface has an electric power receiving ... data stored ... accessed ... receiving power '), clearly encompassing the claimed limitations as

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broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 91, this claim is the method claim for the apparatus claim 5 above, and is rejected for the same reasons provided for the claim 5 rejection; “The data reproducing method according to claim 90, wherein the step of exchanging data comprises the step of

exchanging data

through an interface that includes

an electric power receiving unit; and

wherein data can be accessed

through said interface

by receiving power through said interface.”.

12. Claim 6 **additionally recites** the limitation that; “The data decoding apparatus according to claim 1, further comprising

an interface

that safely exchanges data

with an external apparatus

by encrypting the data,

wherein log data

stored in said memory

can be transmitted



through said interface.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed (i.e., content/reproduction associated data logged, counted – with appropriate copy control and usage/payment schemes updated), and subsequently forwarded externally to royalty collection/processing across the Internet – inclusive of the various secured TCP/IP packet cryptographic functionality (e.g., SSL, IPsec, IPv6, etc.; ‘... encrypting the data ...’) via the interface between the Web appliance (‘... interface ... safely exchanges data ... external ...’) and the network/associated support interfacing (e.g., motherboard I/O, power, interfacing etc.), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 92, this claim is the method claim for the apparatus claim 6 above, and is rejected for the same reasons provided for the claim 6 rejection; “The data reproducing method according to claim 11, further comprising the step of

transmitting a reproduction log  
through an interface.”.

13. Claim 7 **additionally recites** the limitation that; “The data decoding apparatus according to claim 6, wherein said interface has

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a contactless communicating unit.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A-7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed, and subsequently forwarded externally to royalty collection/processing across the Internet – inclusive of the various secured TCP/IP packet cryptographic functionality via the interface between the Web appliance and the network/associated support interfacing (e.g., motherboard I/O interfacing remote control interface – via infrared interfacing; ‘... interface has ... contactless communicating ...’), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 94, this claim is the method claim for the apparatus claim 7 above, and is rejected for the same reasons provided for the claim 7 rejection; “The data reproducing method according to claim 92, wherein the step of exchanging data comprises the step of

exchanging data

through an interface that includes

a contactless communicating unit.”.

14. Claim 8 **additionally recites** the limitation that; “The data decoding apparatus according to claim 7, wherein

said interface has

an electric power receiving unit and  
the data stored in said memory  
can be accessed  
through said interface  
by receiving power  
through said interface.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed, and subsequently forwarded externally to royalty collection/processing across the Internet – inclusive of the various secured TCP/IP packet cryptographic functionality via the interface between the Web appliance and the network/associated support interfacing (e.g., motherboard I/O, memory bus, power, interfacing etc., insofar as power supplied is necessary for the motherboard to perform all other processing/interfacing/storage functions; '... interface has an electric power receiving ... data stored ... accessed ... receiving power '), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 95, this claim is the method claim for the apparatus claim 8 above, and is rejected for the same reasons provided for the claim 8 rejection; “The data reproducing method according to claim 94, wherein the step of exchanging data comprises the step of

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exchanging data through an interface  
that includes an electric power receiving unit; and  
wherein data  
can be accessed  
through said interface  
by receiving power  
through said interface.”.

15. Claim 50 **additionally recites** the limitation that; “The decoding apparatus according to claim 49, wherein when the decoded digital data is free,  
the controller does not change  
said right data  
stored in said second storage.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is logged, counted – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5, such that pay-per-copy, subscription based, IOU, preview (i.e., no charge scenario; ‘... when the decoded digital data is free ...’), etc.), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

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16. Claim 51 **additionally recites** the limitation that; “The decoding apparatus according to claim 49, further comprising

a converting unit

configured to convert output digital data

outputted from the decoding unit

into an analog signal.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed (i.e., content/reproduction associated data logged, counted – with appropriate copy control and usage/payment schemes updated), and subsequently forwarded externally to: (1) royalty collection/processing across the Internet via the interface between the Web appliance and the network/associated support interfacing, and (2) the target or rendering conversion/interfacing aspects (i.e., audio/video as rendered for the user/subscriber; ‘... outputted ... an analog signal ...’), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

17. Claim 52 **additionally recites** the limitation that; “The decoding apparatus according to claim 49, wherein decoding history information

of the decoded data

are stored in said second storage.”.

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The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is logged (e.g., col. 5, lines 31-col. 6, line 5, insofar as concerning the IOU scheme where while copies are made, the copying event (e.g., identifier of what content copied, when, how, etc.,) is saved (i.e., logged as stored in memory per se; '... said second storage ...'), for subsequent associated royalty collection/management; '... decoding history ... stored ...'), counted – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5, such that pay-per-copy, subscription based, IOU, preview, etc.,), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

18. Claim 53 **additionally recites** the limitation that; “The decoding apparatus according to claim 52, further comprising

a communicating unit,

wherein

the decoding history information and

the right data

are transmitted

to an external apparatus

through the communicating unit.”.

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The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed (i.e., content/reproduction associated data logged, counted – with appropriate copy control and usage/payment schemes updated), and subsequently forwarded externally to royalty collection/processing across the Internet via the interface between the Web appliance and the network/associated support interfacing (e.g., motherboard I/O, power, interfacing, communications, etc.; '... communicating unit ... decoding history ... right data ... transmitted ... external ...'), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

19. Claim 54 **additionally recites** the limitation that; “The decoding apparatus according to claim 53, wherein an operation power is supplied  
to the apparatus  
from an exterior source  
through the communicating unit.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed (i.e., content/reproduction associated data logged, counted – with appropriate copy control and usage/payment schemes updated), and

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subsequently forwarded externally to royalty collection/processing across the Internet via the interface between the Web appliance and the network/associated support interfacing (e.g., motherboard I/O, power, interfacing, communications, etc., insofar as power supplied is necessary for the motherboard to perform all other processing/interfacing/storage functions; '... operation power is supplied ... from an exterior ... right data ... through the communicating unit'), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

20. Claim 55 **additionally recites** the limitation that; “The decoding apparatus according to claim 49, wherein the decoding unit comprises

a decoder

configured to decode

an encryption performed on

the digital data and

a decompressing unit

configured to decompress

the data decoded by the decoder.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as said content(s) reproduction is processed (i.e., content/reproduction associated data logged, counted – with appropriate copy control and usage/payment schemes updated), and



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subsequently forwarded externally to: (1) royalty collection/processing across the Internet via the interface between the Web appliance and the network/associated support interfacing, and (2) the target or rendering conversion/interfacing aspects (e.g., audio MP3/video JPEG as decoded/decrypted for rendering for the user/subscriber; '... decoder ... to decode ... encryption ... digital data ... decompressing ... decompress ') subsequent to content have been protected by cryptographic processing prior to source storage/transfer to target storage – inclusive of the various secured TCP/IP packet cryptographic functionality (e.g., SSL, IPsec, IPv6, etc.), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

21. Claim 63 **additionally recites** the limitation that; “The decoding apparatus according to claim 49, wherein

when the right data stored said second storage unit indicate that

the decoded digital data

cannot be reproduced,

said controller stops the decoding process.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, insofar as the source/target transfer encompasses processing elements/storage devices for any combination of source/target elements (e.g., col. 6, lines 6-col. 7, line 61; '... right data ... indicate ... decoded digital data cannot be reproduced ... stops the decoding process '), and said content(s) reproduction is logged, counted

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(e.g., col. 4, lines 45-col. 6, line 5; '... right data ...') – with appropriate copy control and usage/payment schemes updated (e.g., col. 2, lines 35-col. 4, line 8, col. 4, lines 45-col. 6, line 5), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

22. Claim 87 **additionally recites** the limitation that; “The data reproducing apparatus according to claim 1, wherein

said contents data includes at least one of

- audio data,
- video data,
- still image data,
- character data,
- computer graphic data,
- game software, and
- a computer program.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, inclusive of (e.g., col. 5, lines 16-col. 6, line 5; '... contents data includes ...'), insofar as said content(s) reproduction is processed, and subsequently forwarded to royalty collection/processing across the Internet via the interface between the Web appliance, clearly

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encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

23. Claim 88 **additionally recites** the limitation that; “The data reproducing apparatus according to claim 49, wherein

said contents data includes at least one of

audio data,

video data,

still image data,

character data,

computer graphic data,

game software, and

a computer program.”.

The teachings of Berstis are directed towards such limitations (e.g., figures 1-7 and associated descriptions, and more particularly figures 1-3, 6A, 6C and 7, whereas the system for royalty collection for computer distributed/stored/reproduced copyright protected content, inclusive of (e.g., col. 5, lines 16-col. 6, line 5; ‘... contents data includes ...’), insofar as said content(s) reproduction is processed, and subsequently forwarded to royalty collection/processing across the Internet via the interface between the Web appliance, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 9, 10, 56-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis et al, U.S. Patent 6,282,653 B1 (' Berstis ') in view of Downs et al, U.S. Patent 6,226,618 B1 (' Downs ').

Berstis generally teaches and suggests (i.e., Abstract, figures 1-7 and associated descriptions in general) the limitations set forth in the claims 9, 10, 56-61 below (e.g., col. 2, lines 35-col. 4, line 8; usage and payment management via certified or trusted source (storage) and target (rendering and/or storage) apparatus of copyrightable content, insofar as said content is protected such that the digital content usage and payment management supports the copy/reproduction rights of the content author/creator (i.e., copyright royalty management), when said content moves from source to target apparatus. Berstis does not explicitly teach of the aspects of creating/securingly binding the copy/reproduction rights of the content author/creator to the content prior to forwarding to the Berstis source (storage) apparatus (e.g., creating/associating of cryptographic encryption/decryption public/private key(s), author, author royalty/reproduction rights, etc.,).

Downs teaches of the watermarking the content and associated content usage/rights/license management information (e.g., col. 6, lines 49-64, col. 7, lines 40-col. 8, line 5, col. 11, lines 30-54, col. 12, lines 37-42, col. 22, lines 8-52, col. 24, lines 47-62, etc.,), whereas the watermarking aspect deals with the aspects of securely binding the copy/reproduction rights

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of the content author/creator to the content prior to forwarding to the Berstis source (storage) apparatus. Further, while the Downs system generally deals with similar usage and payment management aspects – in addition to the copy/reproduction rights – as taught in Berstis, Downs is more explicit as to the binding to the contents aspects, encompassing the watermarking aspect, insofar as binding the additional information to the content prior to distributing the content (i.e., to the Berstis source across a network/Internet).

However, the examiner asserts that it would have been obvious to one ordinary skill in the art at the time the invention was made for the Berstis system encompassing the usage/payment management for copyrightable content via source/target (storage/rendering) apparatus (insofar as said content with said usage/payment management information is created and bound to the content prior to securely arriving at the Berstis source), to encompass the watermarking of the usage/payment management rights information at the content distribution source, prior to forwarding to the Berstis source storage apparatus. Such motivation, as applied to the claims, would be obvious in light of the Berstis source (storage) requiring more stringent protection of stored rights, insofar as protecting the said rights from compromise (i.e., protected via Downs watermarking the content with the associated Berstis rights/usage information), from Downs origination to Berstis 'source' to 'target', assures the Berstis rights/usage information enforcement.

25. Claim 9 **additionally recites** the limitation that; “The data decoding apparatus according to claim 1, wherein

when the digital data are decoded,

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a decoding condition is embedded  
as a watermark  
into the output data.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information ('... data are decoded ... decoding condition is embedded ... watermark ... output data ...'), clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

Further, as per claim 96, this claim is the method claim for the apparatus claim 9 above, and is rejected for the same reasons provided for the claim 9 rejection; “The data reproducing method according to claim 11, wherein

said step of reproducing comprises the steps of  
decoding said contents data and  
embedding a decoding condition  
as a watermark  
on the decoded data.”.

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26. Claim 10 **additionally recites** the limitation that; “The data reproducing apparatus according to claim 9, wherein when the contents data includes a watermark,

the contents data can be decoded when

the watermark

is the same as

the decoding condition.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information ('... when the contents data includes a watermark ... data can be decoded ... watermark ... same as ... decoding condition '), insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

27. Claim 56 **additionally recites** the limitation that; “The decoding apparatus according to claim 49, further comprising

a watermark detecting unit

for detecting

whether a watermark has been added to output data

outputted from the decoding unit,

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wherein when the watermark is not detected

from the decoded data,

the decoded data are outputted.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information, insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

28. Claim 57 **additionally recites** the limitation that; “The decoding apparatus according to claim 56, wherein

when the data regarding the decoding conditions

are included in the watermark

detected by the watermark detecting unit,

the controller collates

the output data with

the data regarding the decoding conditions

extracted from the decoded subordinate data and

outputs the decoded data



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from the decoding unit

when the data

corresponding to the decoding conditions

detected by the watermark detecting unit

coincides with the data

corresponding to the reproducing conditions

extracted from the decoded subordinate data

stored in the first storage.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information, insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

29. Claim 58 **additionally recites** the limitation that; “The decoding apparatus according to claim 56, wherein

when the data regarding the decoding conditions

detected by the watermark detecting unit

does not coincide with the data

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regarding the reproducing conditions  
extracted from the decoded subordinate data  
stored in the first storage,  
the controller does not output  
the decoded digital data  
from the decoding unit.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information, insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

30. Claim 59 **additionally recites** the limitation that; “The decoding apparatus according to claim 58, wherein

said decoding unit further includes  
a decoding conditions detecting unit  
configured to extract the data  
regarding the decoding conditions  
from the decoded digital data.”.

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The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information, insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

31. Claim 60 **additionally recites** the limitation that; “The decoding apparatus according to claim 57, further comprising

a watermark adding unit

configured to add a watermark

formed on the basis of the data

regarding the decoding conditions,

wherein when the watermark cannot correctly be detected

from the decoded digital data

outputted from said decoding unit by

the watermark detecting unit,

the watermark adding unit

forms the watermark and

adds the watermark to

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the decoded digital data.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information, insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

32. Claim 61 **additionally recites** the limitation that; “The decoding apparatus according to claim 60, wherein

when the watermark is correctly detected

from the decoded digital data

from the decoding unit by

said watermark detecting unit,

said watermark adding unit

does not add the watermark to

the decoded digital data.”.

The teachings of Berstis in view of Downs are directed towards such limitations, as described above (e.g., Berstis, figures 1-7 and associated descriptions, and more particularly figures 2-5, whereas the system for content usage/payment management, insofar as said

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content(s) reproduction associated, copy control and usage/payment security is enhanced as taught by Downs watermarking of the rights information, insofar as watermarking controls the decoding authorization upon matching the embedded watermarking to the condition per se, clearly encompassing the claimed limitations as broadly interpreted by the examiner, and thereby not patently distinguishing the claim over the prior art.).

33. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis et al, U.S. Patent 6,282,653 B1 (' Berstis ').

34. Claim 62 **additionally recites** the limitation that; "The decoding apparatus according to claim 49, wherein

said decoding unit,

said second storage, and

said controller

are constructed as one chip."

The teachings of Berstis generally teaches and suggests (i.e., Abstract, figures 1-7 and associated descriptions in general) the limitations set forth in the claims 9, 10, 56-61 below (e.g., col. 2,lines 35-col. 4,line 8; usage and payment management via certified or trusted source (storage) and target (rendering and/or storage) apparatus of copyrightable content, insofar as said content is protected such that the digital content usage and payment management supports the

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copy/reproduction rights of the content author/creator (i.e., copyright royalty management), when said content moves from source to target apparatus.

Berstis does not explicitly teach of the aspects of a structurally integrated (i.e., constructed as a single chip) decoding unit, second storage, and controller apparatus.

However, as per MPEP § 2114.04 V B pertaining to not distinguishing the claim from the prior art (e.g., “that the use of a one piece construction instead of the structure disclosed in [the prior art] would be merely a matter of obvious engineering choice.”, In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).), the integration of the decoding apparatus decoding unit, second storage, and controller elements would be “a matter of obvious engineering choice”.

### **Response to Arguments**

35. As per applicant’s argument concerning the lack of teaching by Daggar of the reproduction, storage, reproduction history, reproduction number of occurrences, reproduction amount of time processing aspects of at least audio or video data, the examiner has fully considered in this response to amendment; the arguments, and finds them moot in view of the new basis for rejection.

36. The pending claims 1-10 and 50-63 are assumed to be incorrectly submitted, insofar as these claims were initially rejected previously under 35 U.S.C. 112, second paragraph in the 20 October 2006 office action, and subsequently amended to correct the errors in the applicant's amended claims response of 09 April 2007 – except for a missed correction in claim 57.

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Further, the incorrect claims were submitted throughout prosecution up to and including this response (e.g., 9/25/2007, 4/14/2008, 10/30/2008, 6/9/2009, 11/10/2009, 2/1/2010, 4/16/2010, etc., applicant responses). Therefore, this office action assumes the prosecution of the claims as submitted – irrespective of the amendments correcting the 35 U.S.C. 112, second paragraph errors as amended in the applicant's 09 April 2007 claims 2-10 and 50-63 response – given these are the claims finally rejected in the office action resulting in the appeal (i.e., as per the pending appeal brief section 'APPENDIX A – CLAIMS'), and the ambiguity in resolving the correct claim limitations, insofar as assuming a given previously submitted set/combination of claim limitations for the independent claims 1, 11 and 49.

### Conclusion

37. Any inquiry concerning this communication or earlier communications from examiner should be directed to Ronald Baum, whose telephone number is (571) 272-3861, and whose unofficial Fax number is (571) 273-3861 and unofficial email is Ronald.baum@uspto.gov. The examiner can normally be reached Monday through Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad, can be reached at (571) 272-7884. The Fax number for the organization where this application is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. For more information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Baum

Patent Examiner

/R. B./

Examiner, Art Unit 2439

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2439